

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ANTONIO FRAUSTO,)
)
Defendant.)
)

8:09CR3

ORDER

This matter is before the court on defendant's motions for leave to appeal in forma pauperis, Filing Nos. 186 & 189. The defendant seeks leave to proceed *in forma pauperis* on appeal from his conviction and sentence. The defendant was represented by retained counsel in district court proceedings and is accordingly not entitled to proceed on appeal without further authorization as prescribed in Fed. R. App. P. 24(a)(3).

In order to proceed in forma pauperis, the defendant must comply with Fed. R. App. P. 24 which provides:

(a) Leave to Proceed in Forma Pauperis.

(1) Motion in the District Court. Except as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:

- (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;
- (B) claims an entitlement to redress; and
- (C) states the issues that the party intends to present on appeal.

Fed. R. App. P. 24. (a)(1); see also 28 U.S.C. § 1915(a)(1). Accordingly,

IT IS ORDERED that:

1. The Clerk of Court is directed to send the appropriate affidavit to the defendant.
2. The defendant shall submit the completed affidavit to the court within 14 days of the date of this order, at which time the court will consider the defendant's motion for leave to proceed in forma pauperis on appeal.

DATED this 19th day of July, 2010.

BY THE COURT:

s/Joseph F. Bataillon
JOSEPH F. BATAILLON
UNITED STATES DISTRICT JUDGE